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MUSLIM ADVOCATES  
THE ACLU OF NORTHERN CALIFORNIA

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

THE INTERNATIONAL REFUGEE  
ASSISTANCE PROJECT, MUSLIM  
ADVOCATES, and THE ACLU OF  
NORTHERN CALIFORNIA.

Plaintiffs,

vs.

FEDERAL BUREAU OF  
INVESTIGATION, U.S.  
DEPARTMENT OF HOMELAND  
SECURITY, U.S. DEPARTMENT  
OF JUSTICE, and U.S.  
DEPARTMENT OF STATE.

### Defendants.

Case No.:

**COMPLAINT FOR DECLARATORY AND  
INJUNCTIVE RELIEF FOR VIOLATION  
OF THE FREEDOM OF INFORMATION  
ACT, 5 U.S.C. § 552 *et seq.***

1

## INTRODUCTION

2       1. The Trump Administration has radically restricted the admission of refugees  
3 to our country. To support its policies, the Administration has sought to demonize refugees  
4 by repeatedly making unfounded accusations that refugees present a threat to national  
5 security. In turn, refugees report being targeted for increased surveillance and criminal  
6 investigation. On February 25, 2019, Plaintiffs, a coalition of organizations concerned  
7 about these developments, submitted a request under the Freedom of Information Act to the  
8 Federal Bureau of Investigation (“the FBI”), the U.S. Department of Homeland Security  
9 (“DHS”), the U.S. Department of Justice (“DOJ”), and the U.S. Department of State  
10 (“DOS”) (collectively, “Defendants”) seeking information related to the targeting of  
11 refugees resettled in the United States.

12       2. Plaintiffs’ FOIA request seeks, *inter alia*, policies, communications, and  
13 data pertaining to the surveillance and criminal investigation of refugees in the United  
14 States. Plaintiffs’ request stemmed from concern over the Administration’s longstanding  
15 and publicly expressed antagonism towards refugees, beginning with President Trump’s  
16 campaign promise to ban refugees and Muslims from entering this country and continuing  
17 with his multiple attempts to severely limit and in some instances outright halt refugee  
18 admissions. The Administration has frequently claimed that refugees are national security  
19 threats and has made the unsubstantiated claim that hundreds of refugees are under  
20 investigation for potential terrorism-related activities.

21       3. Plaintiffs have no doubt that recent drops in refugee admissions, and in  
22 particular admissions of Muslim refugees, are driven by the current Administration’s  
23 virulent anti-refugee sentiment. Through their request Plaintiffs sought to understand the  
24 pernicious effects of government surveillance and investigation of refugee communities and  
25 requested information desperately needed to quell the fear and uncertainty that the  
26 Administration’s rhetoric has created in these communities. Plaintiffs’ requests are limited  
27 in scope, based on detailed definitions, and seek records from a defined period.

28

4. The basic purpose of FOIA is to ensure an informed citizenry and promote government accountability through transparency.<sup>1</sup> Yet over six months after Defendants received Plaintiffs' request, Defendants have failed to disclose a single record.

5. Accordingly, Plaintiffs seek declaratory and injunctive relief to remedy Defendants' blatant disregard for their obligations under the FOIA, which has improperly shielded records regarding a matter of urgent public concern from public disclosure.

## **JURISDICTION AND VENUE**

6. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1346. This Court also has both subject matter jurisdiction over this action and personal jurisdiction over the parties pursuant to 5 U.S.C. §§ 552(a)(4)(B) and 552(a)(6)(C)(i).

7. Venue is proper in this district pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1391(e). Venue is proper because Plaintiff ACLU of Northern California is based in and has its principal place of business in this district and because a substantial portion of the events giving rise to this action occurred in this district.

## INTRADISTRICT ASSIGNMENT

8. Assignment to the San Francisco Division of this Court is proper under Civil Local Rule 3-2I, (d) because a substantial part of the events or omissions giving rise to Plaintiffs' claims occurred, and continues to occur, in the City and County of San Francisco.

## PARTIES

9. Plaintiff International Refugee Assistance Program (“IRAP”) is a nonpartisan human rights organization and a 501(c)(3) entity. IRAP organizes law students and lawyers to advocate for and advance the legal rights of refugees and displaced persons. IRAP engages in systemic policy advocacy, impact litigation, direct legal aid, and strategic communications to serve the world’s most vulnerable and persecuted individuals and to empower the next generation of human rights leaders.

<sup>1</sup> See <https://www.justice.gov/archives/open/foia>.

1           10. Plaintiff Muslim Advocates (“MA”) is a national civil rights organization  
2 working in the courts, in the halls of power and in communities to halt bigotry in its tracks  
3 and ensure that all Americans may live free from hate and discrimination.

4           11. Plaintiff the ACLU of Northern California (“ACLU-NC”) is an affiliate of  
5 the American Civil Liberties Union, a national, non-profit, non-partisan organization with  
6 the mission of protecting civil liberties from government incursions, safeguarding basic  
7 constitutional rights, and advocating for open government. ACLU-NC is established under  
8 the laws of the state of California and is headquartered in San Francisco, California. ACLU-  
9 NC has approximately 169,000 members. In support of its mission, ACLU-NC uses its  
10 communications department to disseminate to the public information relating to its mission,  
11 through its website, newsletters, in-depth reports, and other publications.

12           12. Defendant the FBI is a federal agency within the meaning of 5 U.S.C. §  
13 552(f). The FBI is responsible for both investigative activities and law enforcement to  
14 promote U.S. national security interests. The FBI is a component agency of Defendant  
15 DOJ. The FBI has possession of, and control over, the information Plaintiffs seek through  
16 their FOIA Request.

17           13. Defendant DHS is a federal agency within the meaning of 5 U.S.C. § 552(f).  
18 DHS is the executive department responsible for enforcing federal immigration laws. DHS  
19 has possession of, and control over, the information Plaintiffs seek through their FOIA  
20 Request.

21           14. Defendant DOJ is an executive department of the United States federal  
22 government and a federal agency within the meaning of 5 U.S.C. § 552(f). DOJ is  
23 responsible for enforcing the law and administration of justice in the United States. DOJ  
24 has possession of, and control over, the information Plaintiffs seek through their FOIA  
25 Request.

26           15. Defendant DOS is a cabinet department of the United States federal  
27 government and a federal agency within the meaning of 5 U.S.C. § 552(f). DOS’s stated  
28

1 vision is to promote and demonstrate democratic values and advance a free, peaceful, and  
 2 prosperous world. DOS's Bureau of Population, Refugees, and Migrations manages the  
 3 U.S. Refugee Admissions Program in cooperation with Defendant DHS. DOS has  
 4 possession of, and control over, the information Plaintiffs seek through their FOIA Request.

5 **STATUTORY FRAMEWORK**

6 16. The Freedom of Information Act, 5 U.S.C. § 552, ("FOIA") requires all  
 7 federal agencies to search for and disclose government records which are requested by a  
 8 member of the public, subject to certain narrow exceptions. 5 U.S.C. §§ 552(a)(3)(A), (C);  
 9 552(b)(1)-(b)(9).

10 17. Compliance with FOIA's disclosure obligations supports government  
 11 transparency and accountability. Federal agencies must respond to FOIA requests within  
 12 twenty business days after receipt, although the deadline may be extended an additional ten  
 13 working days with written notice "[i]n unusual circumstances." *Id.* § 552(a)(6)(A)-(B).

15 18. The agency's written response must state whether it will comply with the  
 16 FOIA request, indicate the reasons for that determination, and provide information  
 17 regarding the process by which a requester may appeal an agency's adverse determination.  
 18 *Id.* § 552(a)(6)(A)(i).

20 19. A FOIA requestor's administrative remedies are deemed exhausted due to an  
 21 agency's failure to properly respond within FOIA's statutory time limits. *Id.*  
 22 § 552(a)(6)(C)(i).

23 20. Upon an agency's failure to meet its obligations, a district court may order  
 24 the production of those records responsive to the FOIA request. *Id.* § 552(a)(4)(B).

## FACTS

## *The Trump Administration's Anti-Refugee Rhetoric and Antagonism Towards Refugees*

21. Starting even before he was elected, President Trump expressed anti-refugee sentiment and antagonized refugees living in and coming to this country. On the campaign trail, then-candidate Trump promised to ban refugees and Muslims entirely. In his first week in office, President Trump signed Executive Order 13769, which suspended the U.S. Refugee Admissions Program for 120 days, indefinitely barred Syrian refugees, and attempted to slash the refugee admissions cap for Fiscal Year 2017 in half.

22. Following numerous successful legal challenges, the Administration replaced Executive Order 13769 with Executive Order 13780. This new order, among other things, again suspended all refugee admissions for 120 days. When that period ended, the Administration imposed *another* 90-day ban on refugees from eleven countries (nine of which are reported to be predominantly Muslim) and indefinitely suspended processing and admission of all Follow-to-Join refugees. Plaintiffs have been involved in various court challenges to each iteration of President Trump’s refugee bans.

23. Not surprisingly, the Administration’s actions have severely limited refugee admissions. The number of refugees admitted under the Trump Administration has plummeted, and disproportionately so for Muslim refugees. The President’s latest Report to Congress for Fiscal Year 2020 proposed an unprecedented low refugee admissions goal of less than 20 percent of the historical average.

24. Plaintiffs are concerned that recent drops in refugee admissions, and in particular admissions of Muslim refugees, are driven by the Trump Administration's fierce antagonism towards refugees, which is reflected in its virulent anti-refugee rhetoric. The Trump Administration has frequently claimed that refugees are national security threats, has claimed that hundreds of refugees are being investigated for potential terrorism-related activities, and has suggested that refugees should be under criminal surveillance.

1 ***Plaintiffs' FOIA Request***

2 25. On February 25, 2019 Plaintiffs submitted a FOIA request (the "Request") to  
 3 Defendants via certified mail. A copy of Plaintiffs' FOIA request is attached hereto as  
 4 Exhibit A.

5 26. Through 12 individually numbered requests, the Request sought records  
 6 pertaining to the criminal investigation and surveillance of refugees and any related  
 7 communications; records relating to various forms of FBI intelligence gathering about  
 8 refugees living in the U.S.; records relating to then-Attorney General Jeff Session's March  
 9 6, 2017 statement that "more than 300 people, according to the FBI, who came as refugees  
 10 are under an FBI investigation;" records and policies pertaining to how surveillance or  
 11 criminal investigations of refugees residing in the United States affects their applications  
 12 for refugee status, adjustment of status, or citizenship; and records provided by DHS or  
 13 DOS to the Senate Judiciary Committee in response to an August 20, 2018 letter from Sen.  
 14 Chuck Grassley. Plaintiffs also sought a fee waiver. *See id.*

15 27. The Request included detailed definitions that clarified the scope of  
 16 individuals requests, and was limited in time, seeking records only from the relevant time  
 17 frame of January 19, 2017 to the present. *See id.*

18 28. Plaintiffs believe the requested records will significantly contribute to the  
 19 public understanding of the government's treatment of and policies pertaining to  
 20 refugees and will help dispel confusion and fear in refugee and other immigrant  
 21 communities, which has resulted from the Administration's explicitly anti-refugee  
 22 rhetoric and policies.

23 ***Defendants' Responses and Plaintiffs' Appeals***24 **DHS's Constructive Denial and Plaintiffs' Appeal**

25 29. DHS received the Request on March 1, 2019 and acknowledged receipt two  
 26 weeks later on March 18, 2019. DHS assigned the Request reference number 2019-HQFO-  
 27 00491. A copy of DHS's March 18 acknowledgment letter is attached hereto as Exhibit B.

1           30.     DHS's acknowledgment letter asserted that it had determined that the  
2 Request was "too broad in scope or did not specifically identify" the records sought. The  
3 letter did not, however, identify which requests were too broad as opposed to which  
4 requests did not specifically identify the records sought. Although DHS stated that its  
5 response was "not a denial" of the Request, DHS suggested that Plaintiffs resubmit their  
6 Request, and informed Plaintiffs that their Request would be administratively closed if they  
7 did not do so within 30 days. DHS did not respond to Plaintiffs' request for a fee waiver.  
8 *See Exhibit B.*

9           31.     Plaintiffs appealed DHS's determination and denial of their request for a fee  
10 waiver via email and certified mail. A copy of Plaintiffs' appeal letter to DHS is attached  
11 as Exhibit C.

12           32.     In their appeal, Plaintiffs indicated that they were open to working with DHS  
13 to understand the specific information it needed to allow a search of agency records that  
14 would result in the identification of responsive information. Plaintiffs also indicated that  
15 they were open to reformulating portions of the Request with DHS's input. *See Exhibit C.*

16           33.     Three months later, on September 17, 2019, DHS<sup>2</sup> partially affirmed its  
17 original determination. A copy of DHS's appeal response is attached hereto as Exhibit D.  
18 DHS affirmed its determination that requests 1, 2, 3, 6, 7, 8, 9, 10, and 11 are "overbroad  
19 and not reasonably described." It remanded requests 4, 5, and 12 for further consideration  
20 within 30 days. *See Exhibit D.*

21           34.     Despite DHS's unsupported opinion, *all* of Plaintiffs' requests are narrow in  
22 scope and sufficiently detail the records sought such that DHS should be able to locate them  
23 with reasonable effort. Moreover, DHS provided no basis – beyond inapplicable,  
24 boilerplate recitations of FOIA's specificity requirement – for its determination that

25 \_\_\_\_\_  
26           <sup>2</sup> The United States Coast Guard Office of the Chief Administrative Law Judge rendered  
27 the official appeal decision on behalf of DHS pursuant to a memorandum of  
28 understanding between those agencies. For simplicity, Plaintiffs refer to "DHS" in  
describing the appeal response.

1 Plaintiffs' requests 1, 2, 3, 6, 7, 8, 9, 10, and 11 are insufficient. Accordingly, DHS has  
 2 violated FOIA's mandate to release agency records to the public by failing to release the  
 3 records as Plaintiffs specifically requested in requests 1, 2, 3, 6, 7, 8, 9, 10, and 11. 5  
 4 U.S.C. §§ 552(a)(3)(A).

5       35.     As of the filing date of this Complaint DHS has not made a revised  
 6 determination on requests 4, 5, and 12. Plaintiffs do not currently dispute DHS's appeal  
 7 determination as to those requests. As of the filing date of this Complaint, DHS has not  
 8 made a revised determination on requests 4, 5, and 12, despite the expiration of its 30-day  
 9 deadline by which to do so. By failing to timely make a further determination on requests  
 10 4, 5, and 12, DHS has constructively denied those requests. Accordingly, DHS has violated  
 11 FOIA's mandate to release agency records Plaintiffs specifically requested in requests 4, 5,  
 12 and 12. 5 U.S.C. §§ 552(a)(3)(A). Due to DHS's failure to adequately support its  
 13 disclosure determinations as to individual requests 1, 2, 3, 6, 7, 8, 9, 10, and 11 and its  
 14 failure to timely make further determinations as to individual requests 4, 5, and 12 Plaintiffs  
 15 are entitled to relief against DHS to enforce each of the individual requests in the Request.

16       The FBI's Denials and Plaintiffs' Appeal

17       36.     On March 11, 2019 the FBI acknowledged receipt of Plaintiffs' Request and  
 18 assigned each individually numbered request a separate reference number.<sup>3</sup> For all but one  
 19 of the requests, FBI determined that the requests either did not "contain enough descriptive  
 20 information to permit a search of [its] records," or were "not searchable." The FBI  
 21 indicated that requests 4 and 5 (Reference No. 1430692-000) had been received for  
 22 processing. The FBI also indicated that Plaintiffs' request for a fee waiver was under  
 23  
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25       <sup>3</sup> The FBI assigned the requests reference numbers as follows: NFP-105033 (request 1),  
 26 NFP-105035 (request 2), NFP-105036 (request 3), NFP-105037 (request 6(a)), NFP-  
 27 105038 (request 6(b)-(c)), NFP-105039 (request 6(d)-(e)), NFP-105040 (request 6(f)-(g)),  
 28 NFP-105041 (request 7), NFP-105042 (request 8), NFP-105043 (request 9), NFP-105044  
 respectively. The FBI assigned requests 4 and 5 reference number 1430692-000. See  
 Exhibit E-4. The FBI failed to respond to request 12.

1 consideration. Copies of the FBI's acknowledgement letters are attached hereto as Exhibits  
2 E-1-E-13.

3 37. Plaintiffs appealed the FBI's determinations as to requests 1-3 and 6-12 via  
4 email and certified mail on May 30, 2019. A copy of Plaintiffs' appeal letter to the FBI is  
5 attached hereto as Exhibit F.

6 38. As with their appeal to DHS, Plaintiffs indicated that they were open to  
7 working with the FBI to understand the specific information it needed to allow a search of  
8 its records that would result in the identification of responsive information. Plaintiffs also  
9 indicated that they were open to reformulating the requests that the FBI indicated were "not  
10 searchable" and asked that the FBI contact them to discuss such reformulation. *See* Exhibit  
11 F.

12 39. On July 12, 2019 the Department of Justice's Office of Information Policy  
13 ("DOJ OIP") summarily affirmed the FBI's original withholding of records due to its  
14 determination that requests 1-3 and 6-12 lack "sufficient identifying information that could  
15 be used by the FBI to conduct a search of its database and file systems" in part because the  
16 records "are not indexed by the FBI in the manner described." *See* Exhibit G, 7/12/2019  
17 FBI Appeal Denial.

18 40. DOJ-OIP provided no further explanation of what sort of information the  
19 FBI would need to search its databases and no basis – beyond inapplicable, boilerplate  
20 recitations of FOIA's specificity requirement – for its determination that Plaintiffs' requests  
21 1-3 and 5-12 are insufficient. Accordingly, the FBI has violated FOIA's mandate to release  
22 agency records to the public by failing to release the records as Plaintiffs specifically  
23 requested in individual requests 1-3 and 6-12. 5 U.S.C. § 552(a)(3)(A).

24 41. On August 29, 2019 DOJ OIP wrote to Plaintiffs regarding request 4, FBI  
25 Reference No. 1430692 (requests 4 and 5). Although Plaintiffs had not appealed the FBI's  
26 response as to these requests DOJ-OIP indicated it was writing in response to an appeal and  
27 assured Plaintiffs that "the FBI is currently processing your clients' request." DOJ-OIP did

1 not state whether the FBI had made a determination on requests 4 and 5 and provided no  
2 timeline for when it may do so. The letter made no reference to determinations on  
3 individual requests that Plaintiffs *did* appeal. *See* Exhibit H, 8/29/2019 DOJ-OIP Letter.

4 42. According to the FBI's online FOIA status portal, the FBI has "identified  
5 potential responsive information" for requests 4 and 5 and "awaits assignment to a  
6 Government Information Specialist (GIS) for further processing." As of the date of the  
7 filing of this Complaint, the FBI has provided no further information regarding the status of  
8 request 4 of the Request and has made no determination on request 4. By failing to timely  
9 make a determination on requests 4 and 5 of the Request, the FBI has constructively denied  
10 request 4.

11 43. Plaintiffs have therefore exhausted the applicable administrative remedies  
12 with respect to requests 4 and 5 under 5 U.S.C. §§ 552(a)(6)(A) and 552(a)(6)(C).

13 44. By failing to timely respond to and constructively denying requests 4 and 5  
14 of the Request the FBI has violated FOIA's mandate to release agency records to the public  
15 by failing to release the records as Plaintiffs specifically requested in individual requests 4  
16 and 5. 5 U.S.C. § 552(a)(3)(A).

17 45. Due to the FBI's failure to adequately support its disclosure determinations  
18 as to individual requests 1, 2, 3, 6, 7, 8, 9, 10, 11, and 12, and its failure to timely make a  
19 determination as to individual requests 4 and 5, Plaintiffs are entitled to relief against FBI to  
20 enforce each of the individual requests in the Request.

21 DOS's Constructive Denial and Plaintiffs' Appeal

22 46. On June 16, 2019, after having received no response from DOS, Plaintiffs  
23 appealed DOS's constructive denial of the Request and their request for a fee waiver. A  
24 copy of Plaintiff's appeal letter to DOS is attached hereto as Exhibit I.

25 47. On July 3, 2019 DOS responded to Plaintiffs' appeal and assigned the  
26 Request case number F-2019-04119. DOS confirmed that the Request was "being  
27 processed" but provided no information regarding the status of the Request and made no

1 determination on the Request. DOS also contended that the Request was “not subject to  
 2 appeal” because “no specific material has been denied.” *See Exhibit J, DOS Appeal*  
 3 Response.

4       48. As of the date of the filing of this Complaint, DOS has provided no further  
 5 information regarding the status of the Request. By failing to make a determination on the  
 6 Request under the FOIA’s prescribed timeline, DOS has constructively denied it.

7       49. Plaintiffs have therefore exhausted the applicable administrative remedies  
 8 with respect to their Request to DOS. *See 5 U.S.C. §§ 552(a)(6)(A), 552(a)(6)(C).*

9       50. By failing to timely respond to and constructively denying the Request in its  
 10 entirety DOS has violated FOIA’s mandate to release agency records to the public. 5 U.S.C.  
 11 § 552(a)(3)(A). Plaintiffs are therefore entitled to relief against DOS to enforce the Request  
 12 in its entirety.

13                   DOJ’s Constructive Denial and Plaintiffs’ Appeal

14       51. On March 29, 2019 DOJ acknowledged receipt of Plaintiffs’ Request and  
 15 assigned it reference number DOJ-2019-002653. DOJ also indicated that it would need an  
 16 extension of time to respond to the Request “beyond the ten additional days provided by  
 17 statute” because responding to the Request would require a search in and/or consultation  
 18 with another Office. *See Exhibit K, DOJ Extension Letter.*

19       52. After hearing nothing further from DOJ for nearly three months Plaintiffs  
 20 sent a follow up letter on June 19, 2019. *See Exhibit L, June 19, 2016 Follow Up Letter to*  
 21 DOJ. In it, Plaintiffs requested an update on the status of Plaintiffs’ Request and an  
 22 anticipated timeline for DOJ’s response.

23       53. On June 27, 2019 DOJ emailed Plaintiffs and stated that it had not yet  
 24 located any records responsive to the Request and it expected that an initial search would  
 25 take “at least several months” to complete. DOJ indicated that it would reach out to  
 26 Plaintiffs again upon completion of its initial review of the material. *See Exhibit M, June*  
 27 *27, 2019 DOJ Email.*

1           54.     Concerned about the uncertainty as to the timeline of DOJ's determination  
2     on the Request, Plaintiffs responded in writing on July 23, 2019 and again sought an  
3     anticipated timeline for DOJ's response. Plaintiffs also asked that DOJ provide  
4     determinations and responsive records on a rolling basis and identify specific requests it  
5     could prioritize. *See Exhibit N, July 23, 2019 Letter to DOJ.*

6 55. On July 26, 2019 DOJ indicated that its record search was “ongoing” and  
7 confirmed that it would provide interim responses to the Request as it makes disclosure  
8 determinations. *See Exhibit O, July 26, 2019 DOJ Email.*

9       56.     As of the date of the filing of this Complaint, DOJ has provided no further  
10 information regarding the status of the Request and has made no determination the Request.  
11 Notwithstanding DOJ’s “processing” of the Request, by failing to make any determination  
12 on the Request nearly six months after it was submitted, DOJ has constructively denied it.

13 57. Plaintiffs have therefore exhausted the applicable administrative remedies  
14 with respect to the Request under the FOIA. *See* 5 U.S.C. §§ 552(a)(6)(A), 552(a)(6)(C).

15 58. By failing to timely respond to and constructively denying the Request in its  
16 entirety, DOJ has violated FOIA's mandate to release agency records to the public. 5  
17 U.S.C. § 552(a)(3)(A).

18 59. Plaintiffs are therefore entitled to relief against DOJ to enforce the Request  
19 in its entirety.

## CLAIM FOR RELIEF

## Violation of the FOIA

(5 U.S.C. §§ 552(a)(3), 552(a)(4), 552 (a)(6))

23           60. Plaintiffs reallege and incorporate each of the foregoing allegations as if  
24 fully set forth herein.

25 61. Plaintiffs have a right under FOIA to obtain the specific agency records  
26 sought in the Request, and Defendants have no legal basis for their failure to promptly  
27 make the requested records and information available.

1           62. Defendants have violated 5 U.S.C. § 552(a)(3)(A) by failing to promptly  
2 release agency records in response to the FOIA Request.

3           63. Defendants have violated 5 U.S.C. § 552(a)(3)(C)-(D) by failing to make  
4 reasonable efforts to search for records responsive to the FOIA Request.

5           64. Defendants have violated 5 U.S.C. § 552(a)(3)(B)-(D) by failing to conduct  
6 an adequate search of records responsive to the FOIA Request.

7           65. Defendants DOS, DOJ, the FBI (as to individual requests 4 and 5) and DHS  
8 (as to revised determinations for individual requests 4, 5, and 12) have violated 5 U.S.C. §§  
9 552(a)(4)(A)(iii); 552(a)(6)(A)(i) by failing to make a determination regarding Plaintiffs'  
10 FOIA Request and request for a fee waiver within the governing statutory time limit.

11           66. Injunctive relief is authorized under 5 U.S.C. § 552(a)(4)(B) because  
12 Defendants continue to improperly withhold agency records, in whole or in part, in  
13 violation of FOIA. Plaintiffs will suffer irreparable injury from, and have no adequate  
14 remedy for, Defendants' illegal withholding of government documents subject to its FOIA  
15 Request.

16           67. Declaratory relief is authorized under 22 U.S.C. § 2201 because an actual  
17 and justiciable controversy exists regarding Defendants' improper withholding of agency  
18 records in violation of FOIA.

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## **PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiffs herewith pray for the following relief:

- (a) For a judicial declaration confirming that Defendants' failure to disclose the records requested by Plaintiffs as alleged herein is unlawful;
- (b) For a judicial declaration confirming the Defendants' DOS, DOJ, and FBI (as to individual requests 4 and 5) constructive denial of Plaintiffs' Request is unlawful;
- (c) For injunctive relief ordering Defendants to immediately and expeditiously
  - (i) produce to Plaintiff all non-exempt responsive documents covered by Plaintiffs' FOIA Request as alleged herein, and (ii) submit a detailed descriptive index justifying Defendants' withholding of any responsive documents within fourteen calendar days of the final production, *see generally Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973);
- (d) For Plaintiff's reasonable attorney's fees and litigation costs reasonably incurred in this action pursuant to 5 U.S.C. § 552(a)(4)(E); and
- (e) For such other relief as the Court may deem just and proper.

Dated: October 21, 2019

Respectfully Submitted:

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